

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the matter of)	
)	
Provision of Directory Listing)	CC Docket No. 99-273
Information Under the Communications)	
Act of 1934, As Amended)	
)	
The Use of N11 Codes and Other)	CC Docket No. 92-105
Abbreviated Dialing Arrangements)	
)	
Administration of the North American)	CC Docket No. 92-237
Numbering Plan)	

REPLY COMMENTS OF LAW OFFICES OF SUSAN BAHR, PC

Summary

The Law Offices of Susan Bahr, PC, hereby submits these reply comments to point out: (a) the declining demand for Telegate's directory assistance (DA) services in Germany; and (b) Telegate's decision to pull out of the U.S. market. Although Telegate filed initial comments in this proceeding, Telegate did not inform the Commission about these facts.

Notice III(c) - Telegate's Proposal

A. DA Demand Is Declining Due to Internet Competition

Telegate experienced a decrease in call volumes in its home country, Germany, from 2000 to 2001. In 2000, Telegate handled 101,845,000 national DA calls, whereas in 2001, Telegate handled

only 97,736,000 national DA calls.¹

Telegate also experienced a decrease in its EBITDA (earnings before interest, taxes, depreciation and amortization) from 2000 to 2001. In the first half of 2000, Telegate had an EBITDA of negative .5 million Deutschmarks (DM), whereas in the first half of 2001, its EBITDA was negative 24.5 million DM. As a result, Telegate reduced its payroll in Germany by 350 employees between January 1, 2001 and August 16, 2001.²

Telegate blames its decreasing EBITDA on the "market for [DA] services [which] continues to be burdened by the free Internet service offered by DeTeMedien, which disturbs the competitive landscape."³

In its Comments in this proceeding, Telegate told the Commission that it has one-third of the DA market in Germany.⁴ Telegate did not tell the Commission that the demand for its DA service is decreasing or that the decrease is due to competition from Internet-based services.

¹ Telegate, 2001 Annual Report 72 (2002), <http://www.telegate.de/english/index.htm> [hereinafter 2001 Report] (copy enclosed).

² Press Release, Telegate, Telegate AG Holds Its Own Position in a Difficult Market Environment: Strict Cost-Cutting Course Lays Healthy Foundation for Upcoming Months, Aug. 16, 2001, <http://www.telegate.de/english/index.htm> (copy enclosed).

³ Id. (emphasis added).

⁴ Telegate Comments at 1.

B. Telegate's Decision to Leave the U.S. Market

In the past few years, Telegate began to provide DA service in the United States in order to convince U.S. regulators that it is sincerely interested in providing service here.⁵ Telegate entered the U.S. market through its purchase of CFW Communications. Telegate provided DA service through CFW Communications' three call centers and two new call centers.⁶

But by 2001, Telegate made a "decision to part company with its American activities."⁷ Telegate then reclassified its U.S. operations as "discontinued operations" because they are no longer part of Telegate's "strategic focus."⁸

In its Comments, Telegate notes that it has one call center in California which provides bilingual service.⁹ But Telegate did not tell the Commission that this call center was opened as the result of "optimization measures" by which its Salt Lake City operations were closed.¹⁰ And more importantly, Telegate's

⁵ Telegate, 2000 Annual Report 37-38, 42 (2001), <http://www.telegate.de/english/index.htm> (copies enclosed).

⁶ Id. at 25, 42 (copies enclosed).

⁷ 2001 Report, at 15 (copy enclosed).

⁸ Id. at 22 (copy enclosed).

⁹ Telegate Comments at 2.

¹⁰ 2001 Report, at 22 (copy enclosed).

Comments say nothing about its decision to "part company with its American activities."

Conclusion

In sum, Telegate, the carrier that initiated this proceeding, made a decision to leave the U.S. market, and is experiencing declining DA demand in its home country. The Commission should decline to adopt Telegate's proposals for changes to DA services in this country.

Respectfully submitted,



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archives

telegate AG holds its own position in a difficult market environment: Strict cost-cutting course lays healthy foundation for upcoming months

Munich, August 16, 2001 - The directory enquiry services of Munich-based telegate AG handled 77.5 million incoming calls during the first six months of the current business year. This represents a 34% increase compared to the same period of last year. Revenues grew by almost ten percent to DM 134.2 million, up from DM 122 million in the first six months of last year. The EBITDA (earnings before interest, taxes, depreciation and amortization) was negative at minus DM 24.5 million. This compares to a negative EBITDA of minus DM 0.5 million during the first half of 2000. It means that telegate will probably not be able to reach its goal of a 50 percent increase in sales and a balanced EBITDA for the entire business year 2001. The company expects to break even on EBITDA-level again by the end of the current business year.

The board of directors of telegate AG has initiated a strict cost cutting course for the entire group and has made a number of significant strategic decisions affecting all segments of the group: In order to compensate for the current weakness in the German market for directory enquiry services, telegate has already reduced its payroll in Germany by approximately 350 employees since the beginning of the year. Although the market for directory enquiry services continues to be burdened by the free Internet service offered by DeTeMedien, which disturbs the competitive landscape, telegate remains optimistic with regard to the future success of its own directory enquiry service. In Germany, the company has already expanded its market share to 30 percent.

The budget of telegate's Internet subsidiary 11880.com GmbH will be reduced to a minimum in the months to come. The three previous locations have been combined into one. A viable marketing strategy will be developed with the support of strategic sales partners.

The Munich-based provider of directory enquiry services is making great strides abroad: In Italy, telegate AG recorded sales of almost DM 2 million during the first six months of 2001. In Spain and in the United Kingdom, a final decision regarding market deregulation is expected to be made by the end of this year. A program aiming at sustained cost reductions has been initiated in all three European markets.

In the United States, the deregulation process has been moving forward at a slow pace in recent weeks. telegate intends to find a strategic partner in the next months in order to establish a wide geographic presence when it enters the market.

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The German market for telephone information services suffered a downturn during the 2001 financial year against the backdrop of the anti-competitive, free Internet offer of Deutsche Telekom. Provisional figures for the information market in Germany assume a call volume of approx. 350 million for 2001 (previous year 390 million). telegate managed to hold its own in the market and to expand its market share further. Including outsourced call volume, (debitel, e-plus, o.tel.o, Mannesmann arcor and ventelo) the market share rose to ca. 30% (previous year 26%). The major competitor remains Deutsche Telekom AG with a market share of about 65%. The remaining 5% of the market is shared by other telephone service providers.

Since April 2001 telegate has been available at number 118800 for Austrian customers from all networks. telegate is currently in negotiations with the Austrian regulatory agency to also offer telegate service at 11880 in Austria and thus be able to reap the benefits of both.

The information market in Europe

The European information market is in the process of being deregulated. After lengthy and persistent work, the British regulatory body OFTEL was motivated by telegate in February to launch a study on opening the British information market. In September the decision was made to open the information market, including the release of the 118xy pathway for all information operators by the end of 2001. Even the former monopoly British Telecom will lose "192", the information number it has had until now, after a 12-month transitional period. This will allow independent information service providers like telegate to participate in fair competition with British Telecom. For several months already, British Telecom has been required to grant telegate access to its database. OFTEL also required the ex-monopolist to handle collections for all independent information service providers.

In the Spanish market as well, the deregulation process is progressing. The Spanish regulatory body CMT, responding to a request by telegate AG, ruled against the ex-monopolist Telefónica; telegate may now access the Telefónica member database at low data costs. The prices may not exceed the actual cost of delivering the data. Furthermore, Telefónica must handle collections for telegate.

The timeline for deregulation in Italy and USA remains vague. Thus the possibility of market entry in these countries currently does not exist. Given this situation and with the focus on Europe, the decision was made to part company with its American activities.



Costs of central functions

The costs of the telegate Group's central functions cannot be directly assigned to an operational business area. For this reason, costs are itemised separately. The costs of telegate's central functions contributed a total of EUR -7.5 million to telegate's earnings before tax, depreciation and amortisation (EBITDA) in 2001. In 2000 costs of central functions amounted to EUR -4.5 million. Earnings before interest and taxes (EBIT) equalled EUR -9.0 million in 2001. (EBIT 2000: EUR -5.3 million). The earnings of central functions include lump-sum advertising expenses totalling EUR 2.8 million, primarily for the Formula 1 sponsorship in the 1st quarter of 2001, which will not apply in 2002. Furthermore, as early as the end of 2000 and in 2001, overhead increased for central functions following telegate's expansion into an international group in 2000 and headquarters' growing service functions for operational areas. Even central functions was restructured as part of the cost optimisation project. The results are clearly visible in the second half of 2001.

Discontinued Operations

telegate Inc., USA, and the Internet businesses arsmovendi.com AG, KIM Travel Consulting AG and MobilSafe AG, as well as PhoneCom Kommunikationsdienste GmbH, were reclassified as Discontinued Operations, since these subsidiaries are no longer part of telegate's strategic focus.

telegate Inc., USA comprises all activities in the U.S.-American market. With the Acquisition of CFW Information Services, Inc. in 2000, a total of three call centers in Virginia were bought which are mainly involved in outsourcing for AT&T. Under optimisation measures the Salt Lake City call center was closed and a new call center opened in San Bernardino, CA. The new call center has the advantage of being able to offer bilingual information services (English and Spanish). This will allow coverage of new customer groups. Other lucrative outsourcing agreements are expected to be gained in this way. Efforts to deregulate the US information services market continued during the 2001 financial year. In 2001 35.7 million calls (previous year from 07/2000: 18.4 million calls) were registered in the USA. The revenues generated in 2001 amount to EUR 15.6 million. 2001 earnings were strained in particular by consultancy and restructuring costs. Earnings before tax, depreciation and amortisation (EBITDA) equalled EUR -3.3 million. Earnings before interest and tax (EBIT) came to EUR -9.6 million.

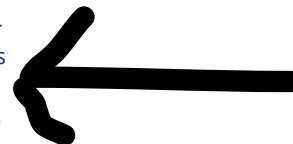
Revenues

	(unaudited) 1.1. – 31.12.2001			(unaudited) 1.1. – 31.12.2000		
	Number of Operatorcalls in Tsd.	Network- minutes in Tsd.	Revenues in TEUR	Number of Operatorcalls in Tsd.	Network- minutes in Tsd.	Revenues in TEUR
National directory assistance	97,736		80,176	101,845		80,667
International directory assistance			2,404	1,095		2,075
Call Completion		62,373	18,335		78,455	22,507
Outsourcing Inbound	10,259		6,909	12,648		8,186
Value added services	934		1,187	292		261
Technical enterprise			1,167			1,110
Information and Call Center Services	109,921	62,373	110,178	115,880	78,455	114,806
Multiple directory inquiries			1			59
Data sales			669			55
Other			4			11
Data Services	0	0	674	0	0	125
Call-by-Call					76,199	3,232
Telephony	0	0	0	0	76,199	3,232
Germany	109,921	62,373	110,853	115,880	154,654	118,164
Outsourcing Inbound	4,531		2,950	22		15
Information and Call Center Services	4,531	0	2,950	22	0	15
Europe	4,531	0	2,950	22	0	15
Yellow Pages			42			25
Internet	0	0	42	0	0	25
Continued Operations - Total	114,452	62,373	113,844	115,902	154,654	118,204
Outsourcing Inbound	35,673		15,654	18,423		7,651
Information and Call Center Services	35,673	0	15,654	18,423	0	7,651
USA	35,673	0	15,654	18,423	0	7,651
travelgate			765			270
Internet	0	0	765	0	0	270
Phonecom (Outsourcing Outbound)			4,720			4,019
Discontinued Operations - Total	35,673	0	21,139	18,423	0	11,940
Telegate Group 2001 - Total	150,125	62,373	134,982	134,325	154,654	130,144

In connection with the development of the “travelgate” travel services portal, telegate acquired 33.3% of arsmovendi.com AG and 33% of KIM Travel Consulting AG in April 2000. arsmovendi.com AG has specialised in selling travel services to private customers, particularly on the internet. The company has access to all tour operators’ catalogues and accepts and handles all direct bookings. In 1999 arsmovendi.com AG was named by the Dortmund Institute for Internet Marketing “Profnet” as “Germany’s best virtual travel agency”. KIM Travel Consulting AG has its focus on business customers and handles all the necessary transactions. Since November 2000 both companies have offered all travel services for private and business customers on their www.travelgate.de website. In the future, customers will be able to access the travelgate platform to book travel services, both on the internet and by telephone.

With its takeover of CFW Information Services Inc., Virginia, in July 2000 telegate succeeded in entering the US market. CFW Information Services operates directory enquiry services under outsourcing agreements, i. e. not under its own brand name. In 1999, CFW’s 300 operators handled 47 million calls and generated revenues of USD 16 million. The company’s biggest customer is AT&T, one of the world’s leading telecommunications companies.

As part of its online concept redesign, 11880.com GmbH signed an agreement with GI AG to take over the latter’s highly advanced “spotscout” internet platform. GI AG develops technologies for the international media industry and has specialised in integrated database, content management and cross-media archiving solutions. This platform is an ideal technological foundation for the construction of the 11880.com online portal. Once the transaction is completed, 11880.com GmbH will not only have access to the technology but also to the highly qualified software development specialists. It is intended to pay for the acquisition with 11880.com GmbH shares to be made available through a capital increase. By 31 December 2000, however, no statutory amendments to this respect had been effected. The transaction is expected to be completed in the first quarter of 2001.

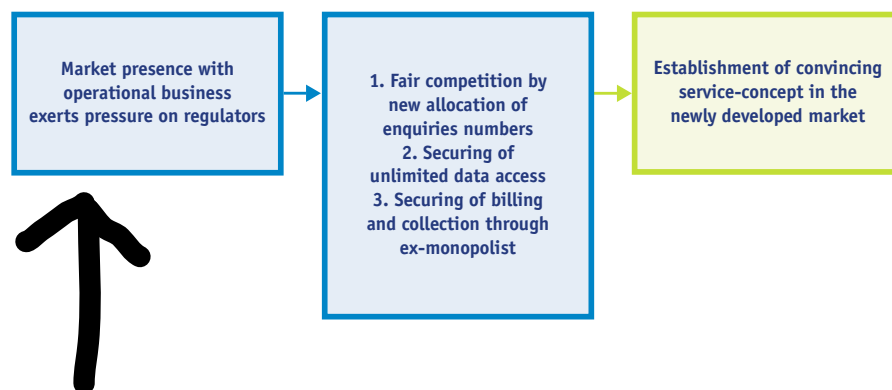


Of course, users of the service had to get used to the new numbers. But, with heavy support in the media this was a quick process, and for the first time they had the luxury of accessing competing enquiries services. This meant that telegate was able to attract more and more customers to its fundamentally unique enquiries service. Every caller dialling 11880 receives the information they want from one person – promptly, competently and reliably. Our operators have become personal assistants supplying the customer with the required information or services at any time. This individually tailored service concept is the big difference between us and other enquiries services.

Your personal assistant will supply you with the information you need, seven days a week, around the clock:

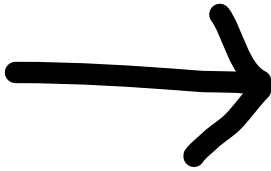
Whether you need to know a phone number, what is on at the cinema or theatre, restaurant information, book a trip, or want to be woken in the morning – our voice-portal can do it all. And, our service concept has worked. Today we are the second largest directory enquiries service in Germany, and are on the way to becoming the world's largest information service provider in this area.

3-Steps-Model



From Experience to Growth

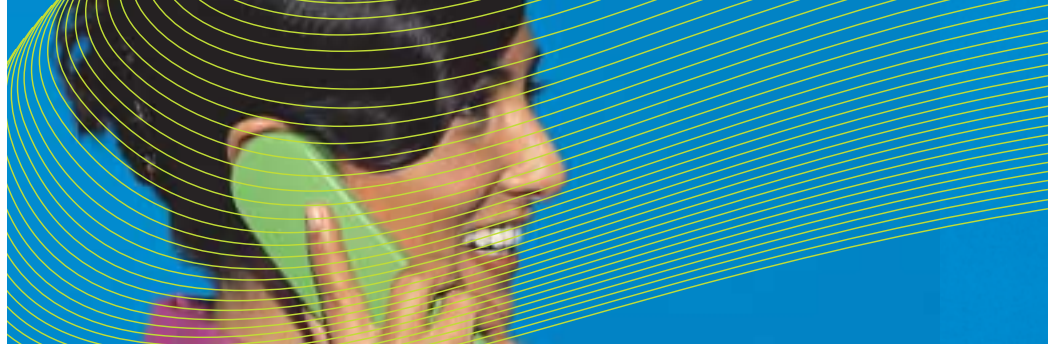
The experience and the know-how that we have accumulated in the course the establishment of our successful business in the German directory enquiries market are important factors for our growth in other countries. In nearly every other European country the regulatory conditions are similar to those that prevailed in Germany until a few years ago. To open up these markets, conditions have to become “competition friendly” and a prerequisite to the successful opening up of the European markets is their deregulation. Using a three-step approach, we want to show you the way we successfully tackled this problem in Germany, and the way we worked with the regulators.



The first step:

Market presence increases pressure on the regulators

In the first phase of opening up a market for directory enquiries services it is important to be operating in that market. Building call centres, installing a powerful and reliable technology, and training the most competent operators all requires a great deal of preparation. As mentioned before, we were able to offer directory enquiries services in Germany during 1997 from fully operational call centres using the number 01199. Our active presence in the market helped us during the intensive and detailed negotiations with the regulators, who only become active in opening up a market when an independent competitor's activity is affected by monopolistic structures. Because of our high level of know-how and involvement, coupled with months of persuasion, we were able to drive through the process of deregulation.



United Kingdom

All the indicators point at the United Kingdom as the next likely candidate for deregulation in Europe. In November 2000 the UK regulator (OfTel), issued a paper which spoke of the opening of the market during 2001. The UK market is particularly important for us, because it represents with around 700 million calls per annum the single largest European market for directory enquiries. The demand for state-of-the-art enquiries services is more developed here than in any other European country. Our research indicates that the UK consumer will be the most receptive to our unique service concept of a single point information voice portal. That's why we have already begun the development of a subsidiary there in 2000, and in the early part of 2001 shall be opening our first call centre in Dumfries, Scotland. Until the market is deregulated we will, as in other countries, acquire outsourcing contracts to build critical mass ready for market deregulation. Serious negotiations have already begun with several major carriers.

USA

The starting point in the USA is rather different from that of Europe, because the same directory enquiries number, 411, is used all over the country. The telecommunications companies themselves usually offer directory services, which is in turn outsourced to companies running call centres. Independent directory enquiries service companies have until now been unable to establish themselves with a brand identity in the American market. The main reason is that independent service providers are effectively denied access to the countrywide 411 enquiries number. telegate is taking steps in the USA as elsewhere to persuade the regulators to deregulate the market. Although some progress has been made, it is hard to know when the market will be deregulated. For telegate this means not just waiting for the deregulation, but also offering directory enquiries services using the 411 number under outsourcing arrangements. With two call centres of our own and three further call centres acquired on taking over the US company CFW Information Services, Inc. we are already well placed to develop our business in the USA. At present AT&T, one of the world's biggest telecommunications companies is a valued telegate customer.

